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*Attorneys for Shanghai Pearls & Gems, Inc. d/b/a
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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

File No. 9768-1

In re:

THE D&M CAPITAL GROUP, LLC,

Debtor.

Chapter 7

Case No. 19-11711 (SCC)

NOTICE OF APPEAL AND STATEMENT OF ELECTION

Part 1: Identify the Appellant

1. Name of appellant: Shanghai Pearls & Gems, Inc. d/b/a Ultimate Diamond Co.
2. Position of appellant in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.

For appeals in a bankruptcy case and not in an
adversary proceeding.

☐ Plaintiff

☐ Debtor

☐ Defendant

☐ Creditor

☐ Other (describe) _____

☐ Trustee

☒ Other (describe): Creditor/Objectant to
Motion to Approve Settlement

Part 2: Identify the subject of this appeal

1. Describe the judgment, order, or decree appealed from:

Order at Docket No. 195, Pursuant to 11 U.S.C. § 105(a) and Federal Rules of
Bankruptcy Procedure 9019(a) Approving Settlement Agreement Between Trustee
and Radwan Diamond & Jewellery Trading

2. State the date on which the judgment, order, or decree was entered: March 12, 2021.

Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment, order, or decree appealed from and the names,
addresses, and telephone numbers of their attorneys:

1. Counsel for Alan Nisselson, trustee for the chapter 7 estate of The D&M Capital
Group, LLC:

Windels Marx Lane & Mittendorf, LLP

Leslie S. Barr, Esq.
156 West 56th Street
New York, New York 10019
Tel.: (212) 237-1000
Fax: (212) 262-1215

2. Counsel for Radwan Diamond & Jewellery Trading:

King & Spalding LLP

Mark M. Maloney, Esq.
Sarah L. Primrose, Esq.
1180 Peachtree Street, NE Suite 1600
Atlanta, Georgia 30309
Tel.: (404) 572-4600
Fax: (404) 572-5100

**Part 4: Optional election to have appeal heard by District Court (applicable only in
certain districts)**

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy
Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to
have the appeal heard by the United States District Court. If an appellant filing this notice wishes
to have the appeal heard by the United States District Court, check below. Do not check the box
if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

- ☒ Appellant elects to have the appeal heard by the United States District court for the
Southern District of New York rather than by the Bankruptcy Appellate Panel.

Part 5: Sign below

Dated: New York, New York
March 26, 2021

Platzer, Swergold,
Goldberg, Katz & Jaslow, LLP
*Attorneys for Shanghai Pearls & Gems, Inc. d/b/a
Ultimate Diamond Co.*

By: /s/ Andrew S. Muller
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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re

THE D&M CAPITAL GROUP, LLC,

Debtor.

Chapter 7

Case No. 19-11711-scc

**ORDER PURSUANT TO 11 U.S.C. § 105(a) AND FEDERAL RULE OF BANKRUPTCY
PROCEDURE 9019(a) APPROVING SETTLEMENT AGREEMENT BETWEEN
TRUSTEE AND RADWAN DIAMOND & JEWELLERY TRADING**

Upon the motion (Doc. 177) (the “**Motion**”)¹ of Alan Nisselson, trustee for the chapter 7 estate of The D&M Capital Group, LLC, seeking entry of an order, pursuant to section 105(a) of the United States Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.*, and Rule 9019 of the Federal Rules of Bankruptcy Procedure, for the entry of an Order approving the Trustee’s Settlement Agreement attached as Exhibit 1 to the Motion with Radwan Diamond & Jewellery Trading (“**Radwan**”); and it appearing that due and sufficient notice has been given to all parties in interest as required by the applicable Federal Rules of Bankruptcy Procedure, as evidenced by the Affidavit of Service filed with the Court (Doc. 177); and objections to the Motion having been filed on March 3, 2021 by Shanghai Pearls & Gems, Inc. d/b/a Ultimate Diamond Co. (Doc. 182), Global Gems, Inc. (Doc. 184), Olga Misimiskaya (Doc. 185), and Moty Spector (Doc. 186) (collectively, the “**Objections**”); and the Trustee having filed and served an Omnibus Reply to the Objections (Doc. 189) (“**Reply**”); and the Motion having come on for a hearing before the Court on March 10, 2021 (the “**Hearing**”); and the Trustee having appeared at the Hearing by his attorneys, Windels Marx Lane & Mittendorf, LLP, Leslie S. Barr, Esq., of counsel; and Radwan having appeared at the Hearing by its attorneys, King & Spalding LLP, Sarah Primrose, Esq. and Mark Maloney, Esq., of counsel; and Ultimate Diamond Co. having appeared at the Hearing by its attorneys, Platzer, Swergold, Levine, Goldberg, Katz & Jaslow,

¹ All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Motion.

LLP, Andrew S. Muller, Esq., of counsel; and Global Gems having appeared at the hearing by its attorneys, McGrail & Bensinger LLP, Ilana Volkov, Esq., of counsel, and Jones Walker LLP, John W. Mills, Esq., of counsel; and Olga Misimiskaya having appeared at the Hearing by her attorneys, Klestadt Winters Jureller Southard & Stevens, LLP, Tracy L. Klestadt, Esq., of counsel; and Moty Spector having appeared at the Hearing by his attorneys, Medina Law Firm, LLC, Eric S. Medina, Esq., of counsel; and the Court having considered the Motion, the Declaration of Alan Nisselson in support of the Motion, the Objections, and the Reply; and the Court having found the relief sought in the Motion is appropriate and the Settlement Agreement is reasonable and in the best interests of the estate and creditors, and for all of the reasons stated by the Court on the record of the Hearing; and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and after due deliberation; and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is granted in its entirety and the Settlement Agreement is hereby approved and authorized.
2. The Objections are overruled for the reasons stated on the record of the Hearing.
3. The automatic stay under 11 U.S.C. § 362(a) is hereby modified to permit the Trustee and Radwan to perform their respective obligations under the Settlement Agreement.
4. The 14 day stay under Bankruptcy Rule 6004(h), Bankruptcy Rule 4001(a)(1), or any other applicable rule, is hereby waived.

5. This Court retains jurisdiction to interpret and enforce this Order.

Dated: New York, New York
March 12, 2021

/S/ Shelley C. Chapman
United States Bankruptcy Judge

JS 44C/SDNY
REV.
10/01/2020

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS

Shanghai Pearls & Gems, Inc. d/b/a Ultimate Diamond Co.

DEFENDANTS

Alan Nisselson, not individually but solely as chapter 7 trustee of bankruptcy estate of Debtor The D&M Capital Group, LLC; Radwan Diamond & Jewellery Trading

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Platzer, Swergold, Goldberg, Katz & Jaslow, LLP
475 Park Avenue South, 18th Fl., New York, NY 10016 (212) 593-3000

ATTORNEYS (IF KNOWN)

Trustee-Windels Marx Lane & Mittendorf, LLP
156 West 56th Street, New York, NY 10019 (212) 237-1000
Radwan-King & Spalding LLP
1190 Peachtree Street NE Suite 1600 Atlanta GA 30309 (404) 572-4600

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

28 U.S.C. §158(a)(1); Appeal from Order of Bankruptcy Court Approving Settlement

Has this action, case, or proceeding, or one essentially the same been previously filed in SDNY at any time? No ☒ Yes ☐ Judge Previously Assigned

If yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date _____ & Case No. _____

IS THIS AN INTERNATIONAL ARBITRATION CASE?

No ☒ Yes ☐

(PLACE AN [x] IN ONE BOX ONLY)

NATURE OF SUIT

TORTS

ACTIONS UNDER STATUTES

CONTRACT

- ☐ 110 INSURANCE
- ☐ 120 MARINE
- ☐ 130 MILLER ACT
- ☐ 140 NEGOTIABLE INSTRUMENT
- ☐ 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- ☐ 151 MEDICARE ACT
- ☐ 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL VETERANS)
- ☐ 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS
- ☐ 160 STOCKHOLDERS SUITS
- ☐ 180 OTHER CONTRACT
- ☐ 195 CONTRACT PRODUCT LIABILITY
- ☐ 196 FRANCHISE

PERSONAL INJURY

- ☐ 310 AIRPLANE
- ☐ 315 AIRPLANE PRODUCT LIABILITY
- ☐ 320 ASSAULT, LIBEL & SLANDER
- ☐ 330 FEDERAL EMPLOYERS' LIABILITY
- ☐ 340 MARINE
- ☐ 345 MARINE PRODUCT LIABILITY
- ☐ 350 MOTOR VEHICLE
- ☐ 355 MOTOR VEHICLE PRODUCT LIABILITY
- ☐ 360 OTHER PERSONAL INJURY
- ☐ 362 PERSONAL INJURY - MED MALPRACTICE

ACTIONS UNDER STATUTES

- ☐ 440 OTHER CIVIL RIGHTS (Non-Prisoner)
- ☐ 441 VOTING
- ☐ 442 EMPLOYMENT
- ☐ 443 HOUSING/ ACCOMMODATIONS
- ☐ 445 AMERICANS WITH DISABILITIES - EMPLOYMENT
- ☐ 446 AMERICANS WITH DISABILITIES - OTHER
- ☐ 448 EDUCATION

REAL PROPERTY

- ☐ 210 LAND CONDEMNATION
- ☐ 220 FORECLOSURE
- ☐ 230 RENT LEASE & EJECTMENT
- ☐ 240 TORTS TO LAND
- ☐ 245 TORT PRODUCT LIABILITY
- ☐ 290 ALL OTHER REAL PROPERTY

- ☐ 367 HEALTHCARE/ PHARMACEUTICAL PERSONAL INJURY/PRODUCT LIABILITY
- ☐ 365 PERSONAL INJURY PRODUCT LIABILITY
- ☐ 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

PERSONAL PROPERTY

- ☐ 370 OTHER FRAUD
- ☐ 371 TRUTH IN LENDING

- ☐ 380 OTHER PERSONAL PROPERTY DAMAGE
- ☐ 385 PROPERTY DAMAGE PRODUCT LIABILITY

PRISONER PETITIONS

- ☐ 463 ALIEN DETAINEE
- ☐ 510 MOTIONS TO VACATE SENTENCE 28 USC 2255
- ☐ 530 HABEAS CORPUS
- ☐ 535 DEATH PENALTY
- ☐ 540 MANDAMUS & OTHER

PRISONER CIVIL RIGHTS

- ☐ 550 CIVIL RIGHTS
- ☐ 555 PRISON CONDITION
- ☐ 560 CIVIL DETAINEE CONDITIONS OF CONFINEMENT

FORFEITURE/PENALTY

- ☐ 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
- ☐ 690 OTHER

PROPERTY RIGHTS

- ☐ 820 COPYRIGHTS
- ☐ 830 PATENT
- ☐ 835 PATENT-ABBREVIATED NEW DRUG APPLICATION
- ☐ 840 TRADEMARK

LABOR

- ☐ 710 FAIR LABOR STANDARDS ACT
- ☐ 720 LABOR/MGMT RELATIONS
- ☐ 740 RAILWAY LABOR ACT
- ☐ 751 FAMILY MEDICAL LEAVE ACT (FMLA)
- ☐ 790 OTHER LABOR LITIGATION
- ☐ 791 EMPL RET INC SECURITY ACT (ERISA)

IMMIGRATION

- ☐ 462 NATURALIZATION APPLICATION
- ☐ 465 OTHER IMMIGRATION ACTIONS

BANKRUPTCY

- ☒ 422 APPEAL 28 USC 158
- ☐ 423 WITHDRAWAL 28 USC 157

DEFEND TRADE SECRETS ACT

- ☐ 880 DEFEND TRADE SECRETS ACT

SOCIAL SECURITY

- ☐ 861 HIA (1395ff)
- ☐ 862 BLACK LUNG (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID TITLE XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS

- ☐ 870 TAXES (U.S. Plaintiff or Defendant)
- ☐ 871 IRS-THIRD PARTY 26 USC 7609

OTHER STATUTES

- ☐ 375 FALSE CLAIMS
- ☐ 376 QUI TAM
- ☐ 450 COMMERCE
- ☐ 460 DEPORTATION
- ☐ 470 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO)
- ☐ 480 CONSUMER CREDIT
- ☐ 485 TELEPHONE CONSUMER PROTECTION ACT
- ☐ 490 CABLE/SATELLITE TV
- ☐ 850 SECURITIES/ COMMODITIES/ EXCHANGE
- ☐ 890 OTHER STATUTORY ACTIONS
- ☐ 891 AGRICULTURAL ACTS
- ☐ 893 ENVIRONMENTAL MATTERS
- ☐ 895 FREEDOM OF INFORMATION ACT
- ☐ 896 ARBITRATION
- ☐ 899 ADMINISTRATIVE PROCEDURE ACT/REVIEW OR APPEAL OF AGENCY DECISION
- ☐ 950 CONSTITUTIONALITY OF STATE STATUTES

Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y. AS DEFINED BY LOCAL RULE FOR DIVISION OF BUSINESS 13? IF SO, STATE:

DEMAND \$ _____ OTHER _____ JUDGE _____ DOCKET NUMBER _____

Check YES only if demanded in complaint

JURY DEMAND: ☐ YES ☒ NO

NOTE: You must also submit at the time of filing the Statement of Relatedness form (Form IH-32).

(PLACE AN x IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from (Specify District) ☐ 6 Multidistrict Litigation (Transferred) ☐ 7 Appeal to District Judge from Magistrate Judge
- ☐ a. all parties represented ☐ b. At least one party is pro se. ☐ 8 Multidistrict Litigation (Direct File)

ORIGIN

(PLACE AN x IN ONE BOX ONLY)

- ☐ 1 U.S. PLAINTIFF ☐ 2 U.S. DEFENDANT ☒ 3 FEDERAL QUESTION (U.S. NOT A PARTY) ☐ 4 DIVERSITY

BASIS OF JURISDICTION

IF DIVERSITY, INDICATE
CITIZENSHIP BELOW.

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF DEF [] []	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF [] []	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF DEF [] []
CITIZEN OF ANOTHER STATE	[] []	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[] []	FOREIGN NATION	[] []

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)
Shanghai Pearls & Gems, Inc. d/b/a Ultimate Diamond Co.
19 West 47th Street
New York, New York 10036 (NY County)

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)
Chapter 7 Trustee, Alan Nisselson, Esq.
Windels Marx Lane & Mittendorf, LLP, 156 West 56th Street, New York, New York 10019 (NY County)

DEFENDANT(S) ADDRESS UNKNOWN

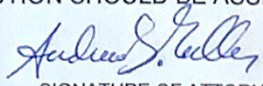
REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN
THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Radwan Diamond & Jewellery Trading
The Twin Towers Banyas Road #2302, Dubai, United Arab Emirates 30382

COURTHOUSE ASSIGNMENT

I hereby certify that this case should be assigned to the courthouse indicated below pursuant to Local Rule for Division of Business 18, 20 or 21.

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☒ MANHATTAN

DATE 3/26/2021 
SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT
[] NO
☒ YES (DATE ADMITTED Mo. Feb. Yr. 94)
Attorney Bar Code # 2587541

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

Ruby J. Krajick, Clerk of Court by _____ Deputy Clerk, DATED _____.

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)